

June 13, 2025

Dear State and Local Elected Officials:

We, the NAACP Legal Defense and Educational Fund, Inc. (LDF),<sup>1</sup> urge you to take all available measures and precautions to safeguard the rights and safety of people protesting in your community in these unprecedented times. In the past week, we have seen peaceful protesters in Los Angeles met with the use of force and military deployments.<sup>2</sup> State violence against political dissent is not new or limited to these events. It has been taking place in communities across the country on the watch of state and local officials for too long. Whether we consider the 2020 racial justice protests<sup>3</sup> or the recent wave of student protests,<sup>4</sup> the vast majority of these demonstrations have been peaceful. Yet too often, they have been met with arrests, use of force, tear gas, and rubber bullets.<sup>5</sup> Even journalists reporting on recent demonstrations in Los Angeles have not been immune to police violence.<sup>6</sup> Recent settlements, complaints, and findings in cities like New York,<sup>7</sup> Philadelphia,<sup>8</sup> and Louisville<sup>9</sup> demonstrate a longstanding truth: the policing of protests too often devolves into unconstitutional conduct, especially when protesters demand justice for people of color.<sup>10</sup>

We have become a more just and inclusive nation in response to the pressure and demands of mass demonstrations and peaceful acts of civil disobedience throughout this country's history. When the constitutionally protected rights of protesters challenging injustice are under attack, the very nature of our democracy is under attack. As an elected leader, you can play a significant role in protecting these rights and preserving the fundamental liberties that protect our ability to progress. In light of escalating aggression and rhetoric directed at protesters, we urge you to take steps to protect peaceful demonstrators and political dissenters. These include avoiding the use of curfews, working with law enforcement leaders to curtail the use of arrests and force, and revising policies and agreements that govern protest responses to ensure they adequately protect protesters' rights.

Under the First, Fourth, and Fourteenth Amendments, protesters are guaranteed equal rights to peaceful assembly without excessive police force and racially discriminatory treatment, regardless of why they are demonstrating.<sup>11</sup> The Constitution requires that any regulation of the time or place of a public protest must, at the very least, be narrowly tailored to serve a significant governmental interest.<sup>12</sup> Further, any arrests or uses of force against protesters must be reasonable,<sup>13</sup> which is unlikely to be the case when those arrested or subjected to police violence are peacefully engaging in constitutionally protected activity. These standards, however, merely establish a bare minimum. State and local officials should implement policies that provide greater protection than these constitutional requirements. Thus, even when officers violate an agency policy, people's fundamental rights may still be protected.

Recently, federal officials have taken unprecedented steps to intimidate and silence those who question this administration's policies or attempt to investigate its actions. Yesterday, Senator Alex Padilla was accosted and arrested by federal officers after asking Secretary Kristi Noem a question during a press conference.<sup>14</sup> Earlier this week, Representative LaMonica McIver was indicted after visiting an immigration detention center in Newark to exercise her oversight authority and investigate the facility's practices.<sup>15</sup> Mayor Ras Baraka was charged with

trespassing for the same incident although the charges against him have been dropped.<sup>16</sup> And the administration's recent orders to deploy National Guard troops and Marines against peaceful protesters in Los Angeles are only the latest attempt to silence critics.<sup>17</sup> These attempts to intimidate and silence those who question or criticize this administration's policies only highlight the importance of state and local officials' duty to protect those who challenge injustice.

Protesters who have grievances about the government will likely continue to challenge this administration's xenophobic and discriminatory policies, such as those targeting immigrants and people of color. Peaceful protests in this country have often been a powerful and necessary tool to bring public attention to injustice, compel governmental action, and achieve social progress. To protect the rights of protesters to peacefully challenge the serious and ongoing unjust actions of this administration, local and state officials should take the following steps:

- Legislators should repeal existing laws criminalizing protest activities, such as laws limiting picketing, leafleting, and public gathering, and local officials should avoid issuing curfews.
- Local officials, including law enforcement leaders, should attempt to develop open lines of communication with local grassroots organizations, activists, and residents, and attempt to resolve concerns and criticisms before protests arise.
- Local government officials responding to protests should:
  - Resolve disagreements regarding protest tactics through mediation and dispute-resolution processes;
  - Consider restorative solutions for violations of laws and ordinances in the course of protest activity;
  - Maintain open lines of communication with protest organizers in order to facilitate demonstrations, hear criticisms and concerns giving rise to protests, and to enable solutions to underlying issues of inequity.
- Ensure protest policies establish clear guidance for responding officers that provide greater protection than minimal legal requirements to prevent violations of protesters' rights. These should include:
  - Prohibiting the use of weapons with indiscriminate impact on protesters, observers, and bystanders, including tear gas, chemical irritants, and acoustic weapons;
  - Prohibiting crowd dispersal orders during peaceful protests as a preventative measure, in response to passive resistance to police, or in response to isolated acts by individuals within a crowd;
  - Requiring exhaustion of non-violent tactics before resorting to any use of force.
- When law enforcement agencies are developing new protest management policies, they should involve community members, protest organizers, and activists in crafting the policies to the extent possible, including through collective agreements.
- City officials should establish funds to remedy harm from the policing of protesters, distributed through community-led grantmaking processes, such as those established in the settlement of *Smith, et al. v. City of Philadelphia*.<sup>18</sup>

State and local officials must act to protect their residents from violence by local law enforcement agencies as well as federal law enforcement authorities. Should you have any questions, please do not hesitate to contact Puneet Cheema at [pcheema@naacpldf.org](mailto:pcheema@naacpldf.org).

Sincerely,  
Legal Defense Fund

<sup>1</sup> LDF is the nation's first and foremost civil rights legal organization. Since its founding, LDF has defended those who have been targeted for exercising their right to peacefully protest, including Freedom Riders (*Lewis v. Greyhound*, 199 F. Supp. 210 (M.D. Ala. 1961)), students of the 1960s sit-in movement (*Garner v. Louisiana*, 368 U.S. 157 (1961)), a conscientious objector to the Vietnam War (*Clay v. United States*, 403 U.S. 698 (1971)), and protesters demanding racial justice and a fundamental change in public safety systems following the police murder of George Floyd (*Smith v. City of New York*, 1:21-cv-03096 (E.D.N.Y. June 1, 2021)).

<sup>2</sup> See, e.g., Alejandra Molina, *Boyle Heights Protesters Demonstrate Peacefully, Encounter Tear Gas Outside Detention Center in Downtown L.A.*, Boyle Heights Beat (June 8, 2025), <https://boyleheightsbeat.com/boyle-heights-peaceful-protest-los-angeles/>.

<sup>3</sup> Roudabeh Kishi & Sam Jones, *Demonstrations and Political Violence in America: New Data for Summer 2020*, ACLED (Sept. 3, 2020), <https://acleddata.com/2020/09/03/demonstrations-political-violence-in-america-new-data-for-summer-2020/>.

<sup>4</sup> Bianca Ho & Kieran Doyle, *US Student Pro-Palestine Demonstrations Remain Overwhelmingly Peaceful*, ACLED (May 10, 2024), <https://acleddata.com/2024/05/10/us-student-pro-palestinedemonstrations-remain-overwhelmingly-peaceful-acled-brief/>.

<sup>5</sup> See, e.g., Roudabeh Kishi & Sam Jones, *Demonstrations and Political Violence in America: New Data for Summer 2020*, ACLED (Sep. 3, 2020), <https://acleddata.com/2020/09/03/demonstrations-political-violence-in-america-new-data-for-summer-2020/>; Bridging Divides Initiative, Princeton Univ., *Analysis of U.S. Campus Encampments Related to the Israel-Palestine Conflict* 2-3 (May 2024), [https://bridgingdivides.princeton.edu/sites/g/files/toruqf6646/files/documents/BDI\\_Issue%20Brief\\_Campus%20Encampment%20Protests\\_May2024\\_Web.pdf](https://bridgingdivides.princeton.edu/sites/g/files/toruqf6646/files/documents/BDI_Issue%20Brief_Campus%20Encampment%20Protests_May2024_Web.pdf).

<sup>6</sup> *Law enforcement injure multiple journalists, others assaulted while covering Los Angeles protests*, Committee to Protect Journalists (June 9, 2025), <https://cpj.org/2025/06/law-enforcement-injure-multiple-journalists-others-assaulted-while-covering-los-angeles-protests/>.

<sup>7</sup> See, e.g., N.Y.C.L.U., NYCLU, *The Legal Aid Society, and Attorney General James Announce Agreement with NYPD to Reform Policing of Protests* (Sep 5, 2023), <https://www.nyclu.org/press-release/nyclu-legal-aid-society-and-attorney-general-james-announce-agreement-nypd-reform>.

<sup>8</sup> Legal Defense Fund, *LDF and Co-Counsel Reach Unprecedented Settlement For Protestors and West Philadelphia Residents Who Suffered Police Violence During 2020 Protests* (Mar. 20, 2023), <https://www.naacpldf.org/press-release/ldf-and-co-counsel-reach-unprecedented-settlement-for-protestors-and-west-philadelphia-residents-who-suffered-police-violence-during-2020-protests/>.

<sup>9</sup> *Scott et al v. Louisville/Jefferson County Metro Government et al*, No. 3:2020cv00535 1-3 (W.D. Ky. Nov. 25, 2020).

<sup>10</sup> Sandhya Kajeepeta & Daniel K.N. Johnson, *Police and Protests: The Inequity of Police Responses to Racial Justice Demonstrations*, Thurgood Marshall Inst. (2024), <https://tminstituteldf.org/police-and-protests-the-inequity-of-police-responses-to-racial-justices-demonstrations/#easy-footnote-bottom-32-7158> (finding that police are deployed more often and with a more escalated presence at racial justice protests, and, once deployed, they are more likely to make arrests and use projectiles and chemical weapons at racial justice protests).

<sup>11</sup> See, e.g., *De Jonge v. Oregon*, 299 U.S. 353, 364-65 (1937) ("These rights may be abused by using speech or press or assembly in order to incite to violence and crime. The people through their legislatures may protect themselves against that abuse. But the legislative intervention can find constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed. The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government.")

<sup>12</sup> *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984)).

<sup>13</sup> See, e.g., *Abay v. City of Denver*, 445 F. Supp. 3d 1286, 1291-92 ("Here, plaintiffs provide video evidence of police conduct at the demonstrations. Those videos show that the officers had ample time for reflection and were not

dealing with dangerous conditions. Named plaintiffs were attacked with rubber bullets, tear gas, etc, allegedly solely on the basis of their presence at the demonstrations, their viewpoint, or their attempts to render treatment to injured protestors. Additionally, plaintiffs allege that officers specifically aimed at heads and groins, causing broken facial bones and ruptured testicles. These are peaceful demonstrators, journalists, and medics who have been targeted with extreme tactics meant to suppress riots, not to suppress demonstrations. There may later be questions of qualified immunity to grapple with, but plaintiffs have established a strong likelihood that defendant engaged in excessive force contrary to the Fourth Amendment.”)

<sup>14</sup> Rebecca Shabad & Jacob Soboroff, *Sen. Alex Padilla is Forcibly Removed from DHS Secretary Kristi Noem's News Conference in Los Angeles*, NBC News (June 12, 2025), <https://www.nbcnews.com/politics/congress/sen-alex-padilla-forcibly-removed-dhs-sec-kristi-noems-press-conferenc-rcna212688>.

<sup>15</sup> Perry Stein and Jeremy Roebuck, *Rep. McIver Indicted on 3 Charges in Clash Outside ICE Detention Center*, Washington Post (June 10, 2025), <https://www.washingtonpost.com/national-security/2025/06/10/lamonica-mciver-indicted-alina-habba-new-jersey/>.

<sup>16</sup> Sophie Nieto-Munoz, *Judge Admonishes Prosecutors Over Handling of Newark Mayor's Arrest*, New Jersey Monitor (May 21, 2025), <https://newjerseymonitor.com/2025/05/21/judge-admonishes-prosecutors-over-handling-of-newark-mayors-arrest/>.

<sup>17</sup> Tom Bowman, *Trump Mobilizes Marines and More National Guard Troops for Duty in LA*, NPR (June 9, 2025), <https://www.npr.org/2025/06/09/g-s1-71640/trump-mobilizes-marines-for-duty-in-los-angeles>.

<sup>18</sup> *See Smith, et al. v. City of Philadelphia, et al.*, No. 2:20-cv-03431 (E.D. Pa. July 14, 2020).